

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISIONRECEIVED
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Albert W. Hart, formerly #170997,) C. A. No. 2:08-3981-JFA-RSC
a/k/a Albert Williams Hoyte a/k/a)
Albert William Hoyte,)
Plaintiff,)
-versus-) **REPORT AND RECOMMENDATION**
Sheriff James Lee Foster (in his)
personal and professional capacity)
as head administrator for the)
Newberry County Detention Center;)
hereinafter "NCDC"); Major D.)
Gilliam (in his personal and)
professional capacity as a member)
of the administration of NCDC); and)
Captain Shane Kitchen (in his)
personal and professional capacity)
as jail administrator of NCDC),)
Defendants.)

On December 10, 2007, the plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983, and he was Ordered at that time to "keep the Clerk of Court advised **in writing (Post Office Box 835, Charleston, South Carolina 29201)** if your address changes for any reason . . . If as a result of your failure to comply with this order, you fail to file something you are required to file within a deadline . . . **your case may be dismissed for violating this order.**" (Emphasis in original). This order was mailed to the plaintiff's last known address (Newberry County Detention Center, 3239 Louis Rich Road, Newberry, South Carolina 29108). The envelope containing

this order was returned to court on February 2, 2008, marked "RETURN TO SENDER NOT AT THIS FACILITY - NOT DELIVERABLE AS ADDRESSED - UNABLE TO FORWARD".

On January 30, 2008, the defendants filed a Motion to Dismiss. On February 2, 2008, a Roseboro Order was forwarded to the plaintiff by the court. This order was also mailed to the plaintiff's last known address (Newberry County Detention Center, 3239 Louis Rich Road, Newberry, South Carolina 29108). The envelope containing this order was also returned to the court on February 6, 2008, marked "RETURN TO SENDER NOT AT THIS FACILITY".

Based on the foregoing lack of action on the part of the plaintiff in keeping the court advised of his address, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution and failure to keep the court advised of his current mailing address.

Respectfully Submitted,



Robert S. Carr
United States Magistrate Judge

Charleston, South Carolina

February 11, 2009

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court judge need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
P.O. Box 835
Charleston, South Carolina 29402

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985).